

§ 1.1016-3T

(3) *Application of § 1.1016-3T(a)(1)(ii).* [Reserved] For further guidance, see § 1.1016-3T(j)(3).

[T.D. 6500, 25 FR 11910, Nov. 26, 1960; 25 FR 14021, Dec. 31, 1960, as amended by T.D. 9105, 69 FR 12, Jan. 2, 2004; T.D. 9307, Dec. 28, 2006; T.D. 9564, 76 FR 81126, Dec. 27, 2011]

§ 1.1016-3T Exhaustion, wear and tear, obsolescence, amortization, and depletion for periods since February 13, 1913 (temporary).

(a)(1)(i) [Reserved] For further guidance, see § 1.1016-3(a)(1)(i).

(a)(1)(ii) The determination of the amount properly allowable for exhaustion, wear and tear, obsolescence, amortization, and depletion must be made on the basis of facts reasonably known to exist at the end of the taxable year. A taxpayer is not permitted to take advantage in a later year of the taxpayer's prior failure to take any such allowance or the taxpayer's taking an allowance plainly inadequate under the known facts in prior years. In the case of depreciation, if in prior years the taxpayer has consistently taken proper deductions under one method, the amount allowable for such prior years must not be increased even though a greater amount would have been allowable under another proper method. For rules governing losses on retirement or disposition of depreciable property, including rules for determining basis, see § 1.167(a)-8T, § 1.168(i)-1T, or § 1.168(i)-8T, as applicable. The application of this paragraph is illustrated by the following example:

Example. On July 1, 2011, A, a calendar-year taxpayer, purchased and placed in service "off-the-shelf" computer software at a cost of \$36,000. This computer software is not an amortizable section 197 intangible. Pursuant to section 167(f)(1), the useful life of the computer software is 36 months. It has no salvage value. For 2011, A elected not to deduct the additional first year depreciation deduction provided by section 168(k). A did not deduct any depreciation for the computer software for 2011 and deducted depreciation of \$12,000 for the computer software for 2012. As a result, the total amount of depreciation allowed for the computer software as of December 31, 2012, was \$12,000. However, the total amount of depreciation allowable for the computer software as of December 31, 2012, is \$18,000 (\$6,000 for 2011 + \$12,000 for 2012). As a result, the unrecovered cost of the computer software as of December 31, 2012, is

26 CFR Ch. I (4-1-12 Edition)

\$18,000 (cost of \$36,000 less the depreciation allowable of \$18,000 as of December 31, 2012). Accordingly, depreciation for 2013 for the computer software is \$12,000 (unrecovered cost of \$18,000 divided by the remaining useful life of 18 months as of January 1, 2013, multiplied by 12 full months in 2013).

(a)(2) through (i) [Reserved] For further guidance, see § 1.1016-3(a)(2) through (i).

(j)(1) *In general.* Except as provided in paragraphs (j)(2) and (j)(3) of this section, this section applies on or after December 30, 2003. For the applicability of regulations before December 30, 2003, see § 1.1016-3 in effect prior to December 30, 2003 (§ 1.1016-3 as contained in 26 CFR part 1 edition revised as of April 1, 2003).

(2) [Reserved] For further guidance, see § 1.1016-3(j)(2).

(3) *Application of § 1.1016-3T(a)(1)(ii).* Paragraph (a)(1)(ii) of this section applies to taxable years beginning on or after January 1, 2012. For the applicability of § 1.1016-3(a)(1)(ii) to taxable years beginning before January 1, 2012, see § 1.1016-3(a)(1)(ii) in effect prior to January 1, 2012 (§ 1.1016-3(a)(1)(ii) as contained in 26 CFR part 1 edition revised as of April 1, 2011).

(4) *Expiration date.* The applicability of this section expires on December 23, 2014.

[T.D. 9564, 76 FR 81126, Dec. 27, 2011, as amended by T.D. 9564, 77 FR 18688, Mar. 28, 2012]

§ 1.1016-4 Exhaustion, wear and tear, obsolescence, amortization, and depletion; periods during which income was not subject to tax.

(a) Adjustments to basis must be made for exhaustion, wear and tear, obsolescence, amortization, and depletion to the extent actually sustained in respect of:

(1) Any period before March 1, 1913.

(2) Any period since February 28, 1913, during which the property was held by a person or organization not subject to income taxation under chapter 1 of the Code or prior income tax laws.

(3) Any period since February 28, 1913, and before January 1, 1958, during which the property was held by a person subject to tax under part I, subchapter L, chapter 1 of the Code, or prior income tax law, to the extent